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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,339	02/06/2004	Eugene A. Helmsie	60,137-207;136-3032-U	5319
26096	7590	09/30/2005		
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			EXAMINER LE, HUYEN D	
			ART UNIT 3751	PAPER NUMBER

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SM

Office Action Summary	Application No. 10/774,339	Applicant(s) HELMETSIE ET AL.	
	Examiner Huyen Le	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cesana (EP-0348653).

The EP-0348653 reference discloses a shower surround comprising a base portion 12; a first wall portion 17; a second wall portion 19; a corner portion 20 engaged with the base portion, the first wall portion, and the second wall portion; and the corner portion 20 comprising a multiple shelves 27 (Fig. 2).

Regarding claim 2, the multiple shelves 27 are molded into the corner portion 20.

Regarding claim 9, the shower surround comprises a top rim 34 engageable with the corner portion 20, the first wall portion 17, and the second wall portion 19 (Fig. 4).

Regarding claim 10, the shower head 35 mounted to the top rim 34.

Regarding claim 11, the shower surround comprises a water conduit 35' which communicates water to the shower head 35, the water conduit 35' located at least partially through the top rim 34 (Fig. 5).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-6 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cesana (EP-0348653) in view of Britt et al (4,319,792).

Although Cesana does not specifically disclose that the shelves 27 are removable from the corner portion and the corner portion includes a multiple horizontal shelf slots, attention is directed to the Britt et al which discloses a shelf structure comprising shelves removably attached to the structure via the slots between projections 18a and 18b and locking members 24a and 24b.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the shelves of Cesana such that they are removably attached to the corner portion via slots formed by the projections and locking members in view of the teaching of the Britt et al reference for easily adjusting the position of the shelves to accommodate different sizes of soap, shampoo and other bathing accessories.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cesana (EP-0348653) in view of Bonack et al (6,640,354).

Although Cesana does not disclose a seat mounted to the corner portion of the shower device, attention is directed to the Bonack et al reference which discloses shower device comprising a seat mounted at a corner portion of the shower.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide seat on the Cesana shower device in view of

the teaching of the Bonack et al reference for providing comfort a user, such as, the elderly, handicapped and children.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cesana (EP-0348653) in view of Zaccai et al (5,329,650).

Although the Cesana reference does not disclose that the shower surround includes an integral light within the corner portion, attention is directed to Zaiccai et al reference which discloses a shower surround comprising a light 98 integral within a control column 32.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made provide a light integral in the corner portion (control column) of the Cesana shower device in view of the teaching of the Zaccai et al reference for providing comfort to a user.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. EP 0415058, Campe, Paredes show a shower stall having a corner with shelves. King et al shows a corner for a shower stall having shelves.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HL
September



Huyen Le
Examiner
Art Unit 3751